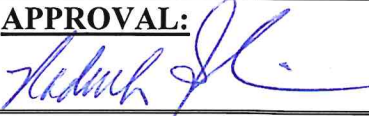




DEPARTMENT NAME: Quality Management		
SUBJECT: Access to Child Record Information		POLICY NUMBER: QM-020
APPROVAL: 	EFFECTIVE DATE: 4-9-2021	REPLACES : QM-020, dated July 24, 2012

- I. **PURPOSE:** The purposes of this policy are to protect the right of privacy for clients and families, to hold confidential information which is exempt from inspection, and to take a protective role with regard to the release of information about the persons served while making available that information which is open to inspection under applicable provisions of Federal Law and Florida Law, including Florida Statutes, Florida Administrative Code and Florida Department of Children and Family Operating Procedure regarding access to information.
- II. **REVIEW HISTORY:** Replaces QM-20, dated July 24, 2012 and incorporates QM-013, dated March 30, 2007 now obsolete.
- III. **CONTACT:** Quality Management Department.
- IV. **PERSONS AFFECTED:** Children's Network staff and contracted Case Management Organizations.
- V. **POLICY:** This policy and procedure is applicable to Children's Network staff and contracted Case Management Organization providers who work with children and families within the dependency system.
- VI. **CROSS REFERENCES:** Florida Statutes 39.00145, 39.0132, 39.202, 39.2021, 39.205, 39.908, 119.07, 119.071, 381.004, 384.29, 394.4615, 397.501 456.057; Florida Administrative Code Rules 65C-16.016, 63.162, 63.085; CFOP 175-37, COA-RPM 8, DCF Guidelines for the Retention and Release of Children's Records (revised October 1, 2010).
- VII. **PROCEDURES:**
 1. **Release of Information Generally.**
 - a. Information in case records generated as a result of child abuse and neglect investigations is confidential and may be released only under specific circumstances which are outlined in the referenced Florida Statutes. Contracted and subcontracted agents of the Children's Network should become familiar with the applicable statutes and other authority referenced above.

- b. If a case record contains non-agency procured or funded medical, psychological, or psychiatric reports, school records, or information about clients received from domestic violence centers, which the case management organization has obtained through consent of the client, the information must not be released without the client's written authorization. The person requesting access to the record should be told of the existence of any such report and referred to the generating source. These reports are confidential and are not available to share without the client's consent.
- c. All state and local agencies and programs that provide services to children or that are responsible for a child's safety, including the Department of Juvenile Justice, the Department of Health, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Education, the Department of Revenue, the school districts, the Statewide Guardian Ad Litem Office, and any provider contracting with such agencies, may share with each other confidential records or information that are confidential or exempt from disclosure under Chapter 119, F.S., if the records or information are reasonably necessary to ensure access to appropriate services for the child, including child support enforcement services, or for the safety of the child. However:
 - (1) Records or information made confidential by federal law may not be shared.
 - (2) This paragraph does not apply to information concerning clients and records of domestic violence centers, which are confidential under F.S. 39.908 and privileged under F.S. 90.5036.
- d. The name of and any identifying information about the person reporting child abuse or neglect are strictly confidential and must not be released, without the written consent of the reporting person to any person other than the employees of the Florida Department of Children and Families ("Department") responsible for child protection services, including protective investigation, the abuse hotline, or the appropriate state attorney. The name and all information identifying the reporting person must be redacted before allowing access by persons authorized by law to examine copies of the reports. Reports made public after petitioning the court pursuant to F.S. 39.2021, must have all names and identifying information redacted prior to release.
- e. Children who leave the care of the Department by virtue of adoption do not lose their entitlement to their records but their access to their records may be delayed until they reach the age of majority. Children who are adopted after being under the supervision of the Department are entitled to the same treatment regarding the Department records as are the children who end their supervision by the Department by a means other than adoption. However, when children are adopted the adoptive parents become their natural guardians. As guardians of the children, they are responsible for making decisions about how the children are cared for, including what information the children receive from a variety of sources until they reach the age of majority. Therefore, the child's entitlement to information contained in the foster care record becomes subordinate to the rights of the parent as guardian until the child reaches the age of majority. Once the child becomes an adult, he or she is presumed capable of making such decisions, as any other adult might be and may request foster care records. This analysis would also apply to children who are adopted but whose adoption disrupts. Once the authority of the natural

guardian no longer applies to the entitlement of the records, the child is once more entitled to the entire foster care record.

- f. Prior to approval of the adoptive placement, the adoptive parents are provided full-disclosure regarding the child's background information. This includes, as applicable, the reason the child came into care, the reason the child was not able to live with birth family, the number of placements the child experienced while in the care of the agency, health history records, school records, mental health records, hospitalization records, residential setting records, the age of the child's birth parents, existence of siblings to the child, known physical or sexual abuse, known addictions of birth parents, child's medication history, genetic history of the child, non-identifying background information of the child, including birth mother's medical records documenting prenatal care and birth and delivery of the child, unusual incidents or traumas that occurred to the child while in care of the agency, shelter petition and shelter order, dependency petition and dependency order, modification petition and modification order, Termination of Parental Rights (TPR) petition and TPR order, most recent Judicial Review Social Study Report and order, original predisposition report, post-TPR report, child study, case plans that address the child's needs, protective investigations identifying the child as a victim, Guardian ad Litem reports filed with the court concerning the child, psychological evaluations and comprehensive assessments, and names of providers who provided services to the child while in foster care.
- g. A complete and accurate copy of case records must be presented free of charge in hard copy, or electronic as requested, to the child who is the subject of the case record, the child's "care giver" (as defined by statute), Guardian ad Litem or attorney in compliance with F.S. 39.00145 and DCF Guidelines for the Retention and Release of Children's Records (revised October 1, 2010). The records must include:
 1. The full name and street address of all shelters, foster and group homes, treatment facilities or locations where the child was placed.
 2. Case Plans, Pre-Disposition Reports, Judicial Review Social Study Reports, court orders, Guardian ad Litem reports, evaluations and comprehensive assessments, medical health history, school records and report cards, mental health reports, hospitalizations and/or residential setting records, any letters, photographs and all other information contained in the case record under law.
 3. Care, concern, and sensitivity should guide sharing of records with children. Staff must be aware that some records could be disturbing to the child and be prepared to appropriately respond to the child's reaction. Considering the child's maturity and chronological age it is recommended that the record sharing take place during a face-to-face meeting with the child and an adult the child knows and trusts. In no case should copies of records simply be handed over to the child.
- h. Section 39.0132(3), F.S., relating to court records in proceedings under Chapter 39, F.S. does not apply to reports or opinions which are covered by legal privilege and form the basis for a dependency petition and which may be discoverable under the Rules of Juvenile Procedure.

When a request for information pertaining to a case in dependency litigation is received, the district/region legal counsel or Children's Legal Services attorney must be consulted prior to release.

- i. All records and reports from the Child Protection Team (CPT) are confidential and exempt from the provisions of sections 119.07(1) and 456.057, F.S., and shall not be disclosed, except as available in official court records and also are part of the case record. CPT records and reports may be disclosed upon request by the state attorney, law enforcement, the Department and necessary professionals in furtherance of the treatment or additional evaluative needs of the child, or by order of the court.
- j. Anyone to whom copies of an abuse report and related case material is given is subject to the same requirements to maintain confidentiality as is the Children's Network employees releasing the information. For this reason, recipients of case material, other than authorized Department staff and the Guardian ad Litem representing the child are asked to sign an affidavit that they understand their responsibility to maintain confidentiality and the penalty for violations.
- k. Due diligence will be made in respect to protecting the identity of other related persons referenced in the child's case file by redacting names and personal identifying information as allowed by law.

2. Limitations on Access to Records.

- a. Pursuant to section 39.202 (2), F.S., only the following persons or entities have access to department records of child abuse, neglect or abandonment:
 1. Employees, authorized agents, or contracted providers of the Department of Children and Families, the Department of Health, or county agencies responsible for child or adult protective investigations, ongoing child or adult protective services, Healthy Start services, licensure or approval of adoptive homes, foster homes, or other homes used to provide for the care and welfare of children (because licensing files are public record, any abuse or neglect records must be kept segregated to avoid inadvertent disclosure), or services for victims of domestic violence when provided by certified domestic violence centers working at the Department's request as case consultants with shared clients.
 2. Employees or agents of the Department of Juvenile Justice who are responsible for the provision of services to child.
 3. Criminal justice agencies of appropriate jurisdiction, including but not limited to, Florida Department of Law Enforcement, county sheriffs' offices, local police offices, probation and parole, Department of Juvenile Justice and the FBI.
 4. The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred (access includes name of reporter).

5. The parent or legal custodian of any child who is alleged to have been abused, neglected, or abandoned, the child, and their attorneys, including any attorney representing a child in civil or criminal proceedings. Access must be granted no later than 60 days after the Department receives the initial report of abuse, neglect or abandonment. If the case has not yet been transferred to the lead agency for on-going services, the requestor will be directed to the Department of Children & Families to access records. However, any information otherwise made confidential or exempt by law (including, but not limited to food stamp records, independent medical, psychological, psychiatric reports, CPT records, and HIV information) shall not be released pursuant to this paragraph.
 6. Any person alleged in the report as having caused the abuse, neglect, or abandonment of a child. Access must be granted no later than 60 days after the initial report. Any information otherwise made confidential shall not be released.
 7. A Court upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to inspection in camera, unless the court determines that public disclosure of the information is necessary for the resolution of an issue then pending before the court.
 8. A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.
 9. Appropriate officials of the Department of Children and Families, Division of Administrative Hearings, Florida Advocacy Council, Auditor General or OPPAGA, Public Employees Relations Commission, Department of Revenue, and the Guardian ad Litem for the child, if related to case-specific activity.
 10. Employees or agents of a counterpart social services agency in another state, if related to case-specific activity.
 11. Any person authorized by the Department engaged in bona fide research.
 12. Any person in the event of the death of the child determined to be the result of abuse or neglect.
 13. The principal of the school where the child is a student.
 14. Staff at a Children's Advocacy Center that is established and operated under section 39.3035, F.S.
- b. In determining whether a person or organization is entitled to obtain records, employees and Case Management Organizations should review the complete listing in F.S. 39.202(2), and not rely solely on the list set forth above. If there is any question whether a person is entitled to obtain records, or specific records should be released, consult with the Network's counsel or the Department's legal office.

- c. Records may be released to professional persons as is necessary for the diagnosis and treatment of the child or the person perpetrating the abuse.
 - d. HIV/AIDS Records. The following procedures shall apply to HIV/AIDS records and information access:
 1. Case narrative will not contain any reference to the child's HIV infection or AIDS.
 2. The CBC shall disclose to adopting or substitute care parents the medical condition, but not the name, of an HIV/AIDS positive child prior to the decision to adopt or accept the child into the substitute care home being made by the parents. Only after the parents have made the commitment to adopt or accept the child into the home shall the name of the child be provided.
 3. The substitute care parents shall be provided with documentation of the complete medical history and condition of a child placed in their care, including HIV/AIDS status. This documentation must be maintained by the substitute care parents and held as confidential information with access strictly limited to the child's physician(s) and other providers of medical and dental care when treatment is required.
 4. Medical documentation needed for school enrollment, day care or similar purpose must be provided separately by the physician and may not contain any reference to the child's HIV/AIDS status.
 5. With the exception of the child's medical records provided to substitute care parents (and to the child's natural parents or other legal guardian), case material which discloses that the child has HIV infection or AIDS will be kept within the file in a "Confidential Information" envelope used to safeguard sensitive case information.
 6. The child's case records will not be segregated or flagged in any way which would permit their identification as case records of HIV infected children.
3. Publicity Access
- a. Public appearances by children in our system of care are voluntary.
 - b. Written consent of the child's parent or legal guardian must be obtained prior to public appearances of children by the Children's Network of Southwest Florida agency. This includes the completion the Photo/Video Release Form by the child's parent or legal guardian.
4. Penalties
- a. A person who knowingly and willfully makes public or discloses to any unauthorized person any confidential information contained in the abuse hotline or in the records of any child abuse, abandonment, or neglect cases is subject to the penalty provisions of 39.205, Florida Statutes.

- b. A person who unlawfully discloses HIV/AIDS information is subject to the penalty provisions of section 384.34, Florida Statutes.

5. Training Requirements

The Child Welfare Pre-Service Training curriculum shall include training on confidentiality of child welfare case records. This training shall include current revisions to confidentiality laws and shall be available on an on-going basis.

VIII. **EXHIBITS:**

- A. Disclosure Information to Adoptive Parents
- B. Photo and Video Release Form
- C. Affidavit of Acknowledgment of Confidentiality



DISCLOSURE INFORMATION TO ADOPTIVE PARENTS

Child's Name: _____ Date of Birth: _____

Adoptive Parent(s) Name(s): _____

Placement through the Department of Children and Families Special Needs Adoption Program. Date of Adoptive Placement: _____

YES NO NA

We/I have been informed of the reason our/my child came into foster care.

We/I have been informed of the reason our/my child was not able to live with his/her birth family.

We/I have been informed of the number of placements our/my child experienced while in the care of the agency.

We/I have been offered a copy of or have had the opportunity to read our/my child's:

Health history records

School records

Mental health records

Hospitalization records

Residential setting records

We/I have been informed of the age of our/my child's birth parents.

We/I have been informed of the existence of siblings to our/my child.

We/I have been informed of all known physical or sexual abuse of our/my child.

We/I have been informed of all known addictions of our/my child's birth parents.

We/I have been informed of our/my child's medication history.

We/I have been informed of all the known genetic history of our/my child.

We/I have been given a copy of the non-identifying background information of our/my child, including the birth mother's medical records documenting her prenatal care and the birth and delivery of our/my child.

We/I have been informed of all unusual incidents or traumas that occurred to our/my child while in care of the agency.

We/I have been informed of the availability of Adoption Assistance for our/my child.

We/I have been informed about the Florida Adoption Registry.

We/I understand that there may have been events or traumas that occurred to our/my child of which the agency has no knowledge.

We/I understand that there may be medical conditions in our/my child's background of which the agency has no knowledge.

We/I have been given a copy of this disclosure form.

We/I will keep the Department or Community Based Care Agency informed of changes in our/my address in order that they may notify us/me if additional information comes to their attention regarding our/my child.

We/I have received the following documents regarding our/my child(ren). (Each adoptive parent must initial receipt of the following documents. All identifying information regarding the birth parents, foster parents and their families, siblings, relatives and perpetrators of crimes against the child or involving the child must be redacted.)

Parent's Initials

Shelter petition and shelter order	_____	_____
Dependency petition and dependency order	_____	_____
Modification petition and modification order if applicable	_____	_____
Termination of Parental Rights petition and TPR Order	_____	_____
Most recent Judicial Review Social Study Report and Order	_____	_____
Original Predisposition Report	_____	_____
Post TPR report if applicable	_____	_____
Child Study	_____	_____
Case plans that address the child's needs	_____	_____
Protective investigations identifying the child as a victim	_____	_____
Guardian ad litem reports filed with the court concerning the child	_____	_____
Psychological Evaluations and Comprehensive Assessments	_____	_____
Names of providers who provided services to our/my child while in foster care	_____	_____

Signature of Prospective Parent 1	Date Signed	Signature of Prospective Parent 2	Date Signed
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The Adoption Counselor, _____, on behalf of the Florida Department of Children and Families, has provided all known information to the adoptive parents that the counselor has been able to obtain on this child.

Signature of Counselor	Date Signed	Signature of Counselor's Supervisor	Date Signed
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EXHIBIT B



PHOTO AND VIDEO RELEASE FORM

I, _____, hereby give my informed consent or
(printed first and last name)

the making of photographs, motion picture films, videotape and sound recording of,

(printed child's first and last name)

for use as part of the Children's Network of Southwest Florida's public information, recruitment, education and training activities.

I authorize the Children's Network of Southwest Florida to release to the public; including the news media information regarding benefits or services the above named has received from or through the Children's Network of Southwest Florida's Case Management Organizations. This shall include release of name and other identifying information, as well as photographs, motion pictures films, video or sound recordings.

It is my understanding that such material may be used by the Children's Network of Southwest Florida and its subcontractors for an indefinite period of time unless this authorization is revoked in writing. However, if revoked, the Children's Network of Southwest Florida shall not be required to recall affected publication, photographs, motion pictures, slides or sound recordings already in use.

Signature: _____ Date: _____
(Parent or Legal Guardian is subject is under 18 years old)

Address: _____

Telephone number: _____

Witness: _____
(printed first and last name)

Witness Signature: _____ Date: _____

EXHIBIT C



AFFIDAVIT OF ACKNOWLEDGEMENT OF CONFIDENTIALITY

STATE OF: _____
COUNTY OF: _____

I, _____, being the
(printed first and last name)

_____ of the child (ren) whose name(s) and (*relationship: parent, legal guardian, attorney etc.*)

date(s) of birth follow(s):

Name: _____ DOB: _____

Name: _____ DOB: _____

Name: _____ DOB: _____

have submitted a request to receive related case information, including abuse report investigations on the above specified child (ren) with the understanding that I am required by Sections 39.202/415.107, Florida Statutes, to hold this information confidential. I understand that I may be guilty of a misdemeanor of the second degree if I release the information to anyone who is not allowed by law to see it.

Date: _____

Signature of person receiving records

Address of person receiving records: _____

SUBSCRIBED AND SWORN to before me on this _____ day of _____, 2011 by _____ who _____ presented _____ as identification or who is personally known, and who affirms that the above statement is true and factual. Notary Public